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PATENT
ATTORNEY DOCKET NO.: 80168-0106



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
BOX PATENT APPLICATION
Washington, D.C. 20231

TRANSMITTAL FOR A NEW PATENT APPLICATION
UNDER 37 C.F.R. §1.53(b)

This is a request for filing a patent application under 37 C.F.R. §1.53(b) of:

Inventors: **Mark A. KAMPE**

For: **A CLUSTER AVAILABILITY MODEL**

1. This is a new Utility Design Plant patent application.

2. The papers enclosed to obtain a filing date are as follows:
32 Pages of Application including
1 Title Page
20 Pages of Disclosure
10 Pages of Claims
1 Page of Abstract; and
6 Sheets of drawings containing 6 Figures
 The enclosed drawing(s) are photograph(s), and there is also attached a PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S).

3. Declaration for Patent Application **OR** Combined Declaration and Power of Attorney
 Enclosed and is newly executed by all inventors.
 Enclosed in this continuation/divisional application and is a copy from a prior application (37 CFR § 1.63(d)).
 Not Enclosed.
This application is being filed under the provisions of 37 C.F.R. §1.53(f).
Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

4. Language

English

Non-English

This application is being filed in accordance with 37 C.F.R. §1.52(d) and §608.01 of the MPEP. Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the verified English translation and the processing fee.

5. Assignment

An assignment of the invention to Sun Microsystems, Inc., and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

An assignment to Assignee Name will be filed at a later date.

6. Priority - foreign applications under 35 U.S.C. §119(a)-(d) or §365(b) or PCT international applications under 35 U.S.C. §365(a) designating at least one country other than the U.S.

Priority of the following foreign application(s) is claimed:

Country	Application No.	Filed

Certified copy: is attached. will follow.

7. Priority based on previously filed U.S. application(s) - 35 U.S.C. §§ 119(e) and 120

Benefit of the following U.S. application(s) is claimed:

Application No.	Filed
60/202,154	May 5, 2000
09/850,183	May 7, 2001

8. Preliminary Amendment

Amend the specification by inserting before the first line the sentence:
"This application is a continuation, division of co-pending application number , filed , which is hereby incorporated by reference"

9. Small entity status

Small entity status under 37 C.F.R. §1.27 is claimed for this application.

10. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$740.00 Design \$370.00
Total Claims (37 C.F.R. §1.16(c))	36 - 20 =	16	\$ 18.00 each=	+\$ 288.00
Independent Claims (37 C.F.R. §1.16(b))	4 - 3 =	1	\$ 84.00 each=	+\$ 84.00
Multiple dependent claim(s), if any (37 C.F.R. §1.16(d))			\$ 280.00	+\$ 0
			SUB-TOTAL =	+\$ 372.00
			Reduction by 1/2 for filing by a small entity	-\$
			TOTAL FILING FEE =	\$ 1,112.00

11. Fee Payment

Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**

This application is being filed under the provisions of 37 C.F.R. §1.53(f).

Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

Enclosed.

A check in the amount of \$1,112.00 for the filing fees and a check for the Assignment fee of \$40.00 are enclosed.

12. **Except** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-1349. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

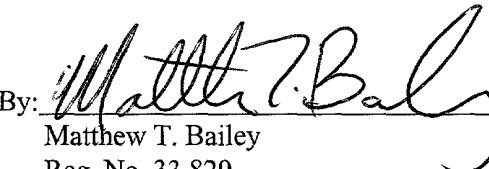
13. Additional papers enclosed:

- Nonpublication Request pursuant to 37 CFR § 1.213
- Combined Power of Attorney by Assignee and Certificate under 37 CFR § 3.73(b)
- Change of Correspondence Address
- Preliminary Amendment
- Information Disclosure Statement
- Form PTO- 1449, documents as listed
- Declaration of Biological Deposit
- Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Please accord this application an application number and filing date.

Respectfully submitted,

HOGAN & HARTSON LLP

By: 
Matthew T. Bailey
Reg. No. 33,829

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